

Forest Service, USDA

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preparation of an environmental impact statement (EIS) (see 40 CFR 1505.2).

Responsible official. The Agency employee who has the authority to make and implement a decision on a proposed action subject to this part.

Specific written comments. Written comments are those submitted to the responsible official or designee during a designated opportunity for public participation (§218.5(a)) provided for a proposed project. Written comments can include submission of transcriptions or other notes from oral statements or presentation. For the purposes of this rule, specific written comments should be within the scope of the proposed action, have a direct relationship to the proposed action, and must include supporting reasons for the responsible official to consider.

§ 218.3 Reviewing officer.

(a) The reviewing officer is the U.S. Department of Agriculture (USDA) or Forest Service official having the delegated authority and responsibility to review an objection filed under this part. For project or activity proposals made below the level of the Chief, the reviewing officer is the Forest Service line officer at the next higher administrative level above the responsible official, or the respective Associate Deputy Chief, Deputy Regional Forester, or Deputy Forest Supervisor with the delegation of authority relevant to the provisions of this part. When a project or activity proposal is made by the Chief, the Secretary of Agriculture or Under Secretary, Natural Resources and Environment is the reviewing officer.

(b) The reviewing officer determines procedures to be used for processing objections when the procedures are not specifically described in this part, including, to the extent practicable, such procedures as needed to be compatible with the administrative review processes of other Federal agencies, when projects are proposed jointly. Such determinations are not subject to further administrative review.

§ 218.4 Proposed projects and activities not subject to objection.

Proposed projects and activities are not subject to objection when no timely, specific written comments regarding the proposed project or activity (see §218.2) are received during any designated opportunity for public comment (see §218.5(a)). The responsible official must issue a statement in the Record of Decision or Decision Notice that the project or activity was not subject to objection.

§ 218.5 Who may file an objection.

(a) Individuals and entities as defined in §218.2 who have submitted timely, specific written comments regarding a proposed project or activity that is subject to these regulations during any designated opportunity for public comment may file an objection. Opportunity for public comment on a draft EIS includes request for comments during scoping, the 40 CFR 1506.10 comment period, or other public involvement opportunity where written comments are requested by the responsible official. Opportunity for public comment on an EA includes during scoping or any other instance where the responsible official seeks written comments.

(b) Federally-recognized Indian Tribes and Alaska Native Corporations are also eligible to file an objection when specific written comments as defined in §218.2 are provided during Federal-Tribal consultations.

(c) Comments received from an authorized representative(s) of an entity are considered those of the entity only. Individual members of that entity do not meet objection eligibility requirements solely on the basis of membership in an entity. A member or an individual must submit timely, specific written comments independently in order to be eligible to file an objection in an individual capacity.

(d) When an objection lists multiple individuals or entities, each individual or entity must meet the requirements of paragraph (a) of this section. If the objection does not identify a lead objector as required at §218.8(d)(3), the reviewing officer will delegate the first eligible objector on the list as the lead objector. Individuals or entities listed

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on an objection that do not meet eligibility requirements will not be considered objectors. Objections from individuals or entities that do not meet the requirements of paragraph (a) of this section will not be accepted and will be documented as such in the objection record.

(e) Federal agencies may not file objections.

(f) Federal employees who otherwise meet the requirements of this subpart for filing objections in a non-official capacity must comply with Federal conflict of interest statutes at 18 U.S.C. 202-209 and with employee ethics requirements at 5 CFR part 2635. Specifically, employees must not be on official duty nor use Government property or equipment in the preparation or filing of an objection. Further, employees must not use or otherwise incorporate information unavailable to the public, such as Federal agency documents that are exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552(b)).

§218.6 Computation of time periods.

(a) *Computation.* All time periods are computed using calendar days, including Saturdays, Sundays, and Federal holidays. However, when the time period expires on a Saturday, Sunday, or Federal holiday, the time is extended to the end of the next Federal working day as stated in the legal notice (11:59 p.m. in the time zone of the receiving office for objections filed by electronic means such as email or facsimile).

(b) *Starting date.* The day after publication of the legal notice required by §218.7(c) is the first day of the objection-filing period.

(c) *Publication date.* The publication date of the legal notice of the EA or final EIS in the newspaper of record or, when the Chief is the responsible official, the FEDERAL REGISTER, is the exclusive means for calculating the time to file an objection. Objectors may not rely on dates or timeframe information provided by any other source.

(d) *Extensions.* Time extensions are not permitted except as provided at paragraph (a) of this section, and §218.26(b).

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§218.7 Giving notice of objection process for proposed projects and activities subject to objection.

(a) In addition to the notification required in paragraph (c) of this section, the responsible official must disclose during scoping and in the EA or EIS that the proposed project or activity is:

(1) A hazardous fuel reduction project as defined by the HFRA, section 101(2), that is subject to subparts A and C of this part, or

(2) A project or activity implementing a land management plan and not authorized under the HFRA, that is subject to subparts A and B of this part.

(b) The responsible official must promptly make available the final EIS or the EA, and a draft Record of Decision (ROD) or draft Decision Notice (DN) and Finding of No Significant Impact (FONSI), to those who have requested the documents or are eligible to file an objection in accordance with §218.5(a).

(c) Upon distribution, legal notice of the opportunity to object to a proposed project or activity must be published in the applicable newspaper of record identified as defined in §218.2 for the National Forest System unit. When the Chief is the responsible official, notice must be published in the FEDERAL REGISTER. The legal notice or FEDERAL REGISTER notice must:

(1) Include the name of the proposed project or activity, a concise description of the draft decision and any proposed land management plan amendments, name and title of the responsible official, name of the forest and/or district on which the proposed project or activity will occur, instructions for obtaining a copy of the final EIS or EA and draft ROD or DN as defined in §218.2, and instructions on how to obtain additional information on the proposed project or activity.

(2) State that the proposed project or activity is subject to the objection process pursuant to 36 CFR part 218; identify whether the special procedures of subpart B or subpart C of this part are applicable; and include the following:

(i) Name and address of the reviewing officer with whom an objection is to be filed. The notice must specify a street,